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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/395,270    09/13/99    PELOSI

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PM82/0612

EXAMINER

JOHNSON, B

ART UNIT

PAPER NUMBER

3634

DATE MAILED:

06/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/395,270

Applicant(s)  
Pelosi

Examiner  
Blair M. Johnson

Art Unit  
3634



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 4, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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1. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman.

Wyman discloses a polymer backing having a double layer of adhesive 10,11, and release films therefor 12,13. It would have been well within the purview of one of ordinary skill in the art to first place the backing on the underlying surface, carpet, concrete, etc., and then place the top carpet or rug thereon, such being an obvious choice of sequence of steps. For instance, placing the backing on the subfloor first is advantageous as the backing is less bulky and easier to work with when not attached to the carpet. Furthermore, using different types and/or strengths of adhesive for the different sides of the backing would have been obvious so as to better adhere to the intended surfaces. This backing is applicable to carpets, rugs or carpet tiles. The thickness of the backing is also an obvious variant depending on the application surface, carpet to be used, etc.

2. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman in view of SIGA brochure.

While Wyman primarily explicitly teaches applying a rug to a carpet, using a backing having a release sheet to mount a carpet to a floor is clearly well known as evidenced by SIGMA. The backing is first adhesively attached to the subfloor and then the carpet is attached to the backing. Based on this teaching, it would have been obvious to modify Wyman whereby his backing is used to attached a carpet to a floor surface by first attaching the backing to the subfloor and then attaching the carpet to the backing. The other teachings of Wyman are discussed above.

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3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman as applied above, and further in view of Shaw bulletin No. 82.

Shaw indicates that his backing sheet may be attached to existing carpets as well as new or existing concrete slabs, page 1. While it is considered that such is obvious, as discussed above, Shaw provides further evidence of such and applying the backing of Wyman to a concrete surface would have been obvious in view thereof.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, either alone or in view of SIGA, as applied above, and further in view of Murphy et al '910.

Murphy discloses a backing sheet comprising various non-woven polymers, column 2, which indicates that a woven backing, as in Wyman, is not the only means by which the backing can be constructed. It would have been obvious to modify Wyman to have such a backing as an obvious matter of choice of design.

5. Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw Bulletin No. 82.

Shaw discloses a backing system which uses pressure sensitive adhesive which has been applied to the backing which adheres to the subfloor and the carpet. The top surface of the backing has a plastic release liner (page 002, left column). The backing may be used over existing carpets or concrete (page 002, right column). This reference contains separate directions for using the backing system with sheet carpet (pages 002-007) and carpet tiles (pages 008-014). The

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method clearly includes the steps in claim 1 of: providing a backing having adhesive on at least one side; placing the sheet on a subfloor; providing a carpet; placing the carpet on the backing.

6. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw Bulletin No. 82 in view of Wyman.

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JN GAOH  
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The backing of Shaw is comprised of a material which provides a pressure sensitive adhesive on both sides thereof. It is not clear if the adhesive properties are the result of coating each side separately. However, Wyman does disclose providing two separate layers of adhesive 10,11, to the backing. While they are of the same strength, modifying one of the adhesives to be of lesser strength would have been obvious since different holding powers are required due to the different surfaces to which the backing is to be attached. Using an adhesive of lesser strength on one side would be motivated by the desire to make the backing easier to work with, easier to remove when necessary, and less expensive. In view of this teaching, it would have been obvious to modify Shaw to have two separate layers of adhesive of different strengths.

Wyman further discloses plastic material for his backing, column 3, lines 50-61, which has obvious advantages. While the material from which the Shaw backing is constructed is not disclosed, using plastic as taught by Wyman would have been obvious due to the clear advantages plastic has in such a use. The thickness would have been a design choice obvious to one of ordinary skill in the art as a result of routine experimentation.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw Bulletin No. 82 in view of Murphy et al '910.

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Murphy et al '910 is applied here as above.

8. Applicant's arguments have been fully considered but they are not persuasive. Additional motivation for first applying the backing to the subfloor and then applying the carpet to the backing has been provided above.

Modifying the thickness of the backing to provide optimum performance would have been well within the scope of abilities of one of ordinary skill in the art.

Regarding SIGA, both SIGA and Wyman provide a backing to attach a carpet to a subfloor. Consequently, they are analogous and modifying Wyman wherein the backing is laid on the subfloor before the carpet is attached is clearly taught by SIGA.

The teachings of Shaw is interpreted in the same manner in which SIGA has been interpreted.

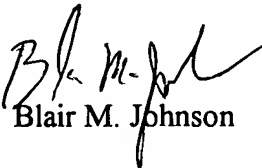
The term "dimensionally stable" is broad and subjective since any sheet material has a certain degree of dimensional stability.

Lastly, concerning Murphy et al, he clearly states that his backing is formed by "conventional techniques", column 2, line 52, and is made of polymers, column 2, lines 55-57. The Murphy et al backing has "one or more adhesive surfaces", column 2, lines 21-22. Based on these teachings, the Murphy et al reference is clearly analogous.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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Art Unit 3634

June 11, 2001  
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